

## **REMARKS**

Claims 10-15 and 28-39 are pending in the application with new claims 38 and 39 added herein and claims 1-9 and 27 canceled herein. Applicant expresses appreciation for the allowance of claims 10-15 and 28-37. Without admitting to the propriety of the rejection of claims 1-9 and 27, Applicant herein cancels such claims. New claims 38 and 39 depend respectively from allowed claims 13 and 29 and, accordingly, are also in condition for allowance.

Applicant herein establishes adequate reasons supporting patentability of claims 10-15 and 27-39 and requests allowance of all pending claims in the next Office Action.

Applicant takes strong exception to certain of the Office's statements regarding reasons for allowance. The Office is reminded that the patent statutes require claims to be presented and interpreted in accordance with what the Applicant regards as its invention, not what the Office regards as the invention. Accordingly, the Office must read the claims as Applicant regards them (as they are literally worded), not as the Office might regard them.

Certain of the Office's statements refer to language that is not in claims 13 and 29 and, accordingly, do not follow from allowability of claims that do not literally include such language. Certain of the Office's statements might be interpreted later as reading limitations into Applicant's claims which simply are not there, or otherwise indicate that Applicant must regard its invention as that which the Office has interpreted outside the literal claim language.

The statement of reasons for allowance on pages 6-7 of the Office Action state that the claims are allowable, in part, because the prior art does not suggest converting at least some of the polysilicon layer to undoped hemispherical grain polysilicon. This might be interpreted to conclude that the Office regards Applicant's claims to include undoped hemispherical grain polysilicon and that, therefore, all of the claims are so limited. Yet, Applicant did not include such limitations in claims 13 and 29 and had no intention that claims 13 and 29 would be so limited.

The Office must interpret the claims in accordance with their literal wording and, to the extent the Examiner has not already done so, such is mandated now. If the Office based allowance upon language not appearing in the claims, then the Office must reject the claims and suggest insertion of such language. Then, Applicant can respond as it deems appropriate.

Allowance of the claims as literally worded is urged. Entry of the above new claims essentially precludes claims 13 and 29 from in any way being interpreted that undoped hemispherical grain polysilicon is required as a limitation in such claims. If the Office enters this Amendment, then this file history is to be interpreted as if the Office's statement of reasons for allowance in the Office Action never existed or was withdrawn. If the Office disagrees with this just stated position, then claims rejections are mandated or modification of the statement of reasons for allowance is warranted.


In addition, Applicant previously filed a Supplemental IDS and Form PTO-1449 on April 2, 2003. Applicant has not received an initialled copy of

the submission indicating consideration of the references cited therein.

Applicant requests return of the initialled Form PTO-1449 with the next Office Action. Review of the Office's Image File Wrapper indicates that the Office received the subject IDS.

Respectfully submitted,

Dated: 22 May 2006

By:   
James E. Lake  
Reg. No. 44,854